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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

) Case No.	
TERRI ALVES, individually and on)	
behalf of all others similarly situated,	) <u>CLASS ACTION</u>	
)	
Plaintiff,	) COMPLAINT FOR VIOLATIONS	
	) OF:	
vs.)	
	)	1. NEGLIGENT VIOLATIONS
OASIS MEDIA GROUP, INC., and	)	OF THE TELEPHONE
DOES 1 through 10, inclusive, and each	)	CONSUMER PROTECTION
of them,	)	ACT [47 U.S.C. §227(b)]
	)	2. WILLFUL VIOLATIONS
	)	OF THE TELEPHONE
Defendant.	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227(b)]
	)	3. NEGLIGENT VIOLATIONS
	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227(c)]
	)	4. WILLFUL VIOLATIONS
	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227(c)]
)	
	) <u>DEMAND FOR JURY TRIAL</u>	

1 Plaintiff TERRI ALVES (“Plaintiff”), individually and on behalf of all
2 others similarly situated, alleges the following upon information and belief based
3 upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
6 similarly situated seeking damages and any other available legal or equitable
7 remedies resulting from the illegal actions of OASIS MEDIA GROUP, INC.
8 (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff on
9 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection
10 Act, 47 U.S.C. § 227 *et seq.* (“TCPA”) and related regulations, specifically the
11 National Do-Not-Call provisions, thereby invading Plaintiff’s privacy.

12 **JURISDICTION & VENUE**

13 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
14 a resident of California, seeks relief on behalf of a Class, which will result in at
15 least one class member belonging to a different state than that of Defendant, a
16 California company. Plaintiff also seeks up to \$1,500.00 in damages for each call
17 in violation of the TCPA, which, when aggregated among a proposed class in the
18 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
19 Therefore, both diversity jurisdiction and the damages threshold under the Class
20 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

21 3. Venue is proper in the United States District Court for the Central
22 District of California pursuant to 28 U.S.C. § 1391(b) and because Defendant does
23 business within the State of California and Plaintiff resides within the County of
24 San Luis Obispo.

25 **PARTIES**

26 4. Plaintiff, TERRI ALVES (“Plaintiff”), is a natural person residing in
27 Shell Beach, California and is a “person” as defined by 47 U.S.C. § 153 (39).

28 5. Defendant, OASIS MEDIA GROUP, INC. (“Defendant”) is an online

1 business consultant company, and is a “person” as defined by 47 U.S.C. § 153 (39).

2 6. The above named Defendant, and its subsidiaries and agents, are
3 collectively referred to as “Defendants.” The true names and capacities of the
4 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
5 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
6 names. Each of the Defendants designated herein as a DOE is legally responsible
7 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
8 Complaint to reflect the true names and capacities of the DOE Defendants when
9 such identities become known.

10 7. Plaintiff is informed and believes that at all relevant times, each and
11 every Defendant was acting as an agent and/or employee of each of the other
12 Defendants and was acting within the course and scope of said agency and/or
13 employment with the full knowledge and consent of each of the other Defendants.
14 Plaintiff is informed and believes that each of the acts and/or omissions complained
15 of herein was made known to, and ratified by, each of the other Defendants.

16 **FACTUAL ALLEGATIONS**

17 8. Beginning in or around December 2017, Defendant contacted Plaintiff
18 on Plaintiff’s cellular telephone number ending in -7441, in an attempt to solicit
19 Plaintiff to purchase Defendant’s services.

20 9. Defendant would call Plaintiff’s cellular telephone number every day,
21 including weekends, and would sometimes place multiple calls in one day.

22 10. When Plaintiff would answer Defendant’s phone calls, she was told
23 by an automated system what Defendant’s services were and to press “1” to speak
24 to a representative for more information.

25 11. Plaintiff asked Defendant multiple times to be placed on its do not call
26 list.

27 12. Despite this, Defendant continued to call in an attempt to solicit
28 Plaintiff to purchase Defendant’s services.

1 13. Defendant used an “automatic telephone dialing system” as defined
2 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiff seeking to solicit its services.

3 14. Defendant contacted or attempted to contact Plaintiff from telephone
4 number (805) 209-1334, confirmed to be Defendant’s number.

5 15. Defendant’s calls constituted calls that were not for emergency
6 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

7 16. Defendant’s calls were placed to a telephone number assigned to a
8 cellular telephone service for which Plaintiff incurs a charge for incoming calls
9 pursuant to 47 U.S.C. § 227(b)(1).

10 17. During all relevant times, Defendant did not possess Plaintiff’s “prior
11 express consent” to receive calls using an automatic telephone dialing system or an
12 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §
13 227(b)(1)(A).

14 18. By not placing Plaintiff on its internal do not call list after Plaintiff
15 repeatedly requested to not be contacted again by Defendant, Defendant failed to
16 establish and implement reasonable practices and procedures to effectively prevent
17 telephone solicitations, in violation of the regulations prescribed under 47 U.S.C. §
18 227(c)(5).

19 19. Further, Plaintiff’s cellular telephone number ending in -7441 was
20 added to the National Do-Not-Call Registry on or about December 2, 2003.

21 20. Defendant placed multiple calls soliciting its business to Plaintiff on
22 her cellular telephone ending in -7441 in or around December 2017.

23 21. Such calls constitute solicitation calls pursuant to 47 C.F.R. §
24 64.1200(c)(2) as they were attempts to promote or sell Defendant’s services.

25 22. Plaintiff received numerous solicitation calls from Defendant within
26 the past seven months.

27 23. Plaintiff still receives numerous solicitation calls from Defendant.

28 24. Defendant continued to call Plaintiff in an attempt to solicit its

1 services and in violation of the National Do-Not-Call provisions of the TCPA.

2 25. Upon information and belief, and based on Plaintiff's experiences of
3 being called by Defendant after being on the National Do-Not-Call list for several
4 years prior to Defendant's initial call, and at all relevant times, Defendant failed to
5 establish and implement reasonable practices and procedures to effectively prevent
6 telephone solicitations in violation of the regulations prescribed under 47 U.S.C. §
7 227(c)(5).

8 **CLASS ALLEGATIONS**

9 26. Plaintiff brings this action individually and on behalf of all others
10 similarly situated, as a member of the two proposed classes (hereafter, jointly, "The
11 Classes").

12 27. The class concerning the ATDS claim for no prior express consent
13 (hereafter "The ATDS Class") is defined as follows:

14 All persons within the United States who received any
15 solicitation/telemarketing telephone calls from
16 Defendant to said person's cellular telephone made
17 through the use of any automatic telephone dialing
18 system or an artificial or prerecorded voice and such
19 person had not previously consented to receiving such
20 calls within the four years prior to the filing of this
21 complaint.

22 28. The class concerning the National Do-Not-Call violation (hereafter
23 "The DNC Class") is defined as follows:

24 All persons within the United States registered on the
25 National Do-Not-Call Registry for at least 30 days, who
26 had not granted Defendant prior express consent nor had
27 a prior established business relationship, who received
28 more than one call made by or on behalf of Defendant
that promoted Defendant's products or services, within
any twelve-month period, within four years prior to the
filing of this complaint.

1
2 29. Plaintiff represents, and is a member of, The ATDS Class, consisting
3 of all persons within the United States who received any collection telephone calls
4 from Defendant to said person's cellular telephone made through the use of any
5 automatic telephone dialing system or an artificial or prerecorded voice and such
6 person had not previously provided their cellular telephone number to Defendant
7 within the four years prior to the filing of this Complaint.

8 30. Plaintiff represents, and is a member of, The DNC Class, consisting
9 of all persons within the United States registered on the National Do-Not-Call
10 Registry for at least 30 days, who had not granted Defendant prior express consent
11 nor had a prior established business relationship, who received more than one call
12 made by or on behalf of Defendant that promoted Defendant's products or services,
13 within any twelve-month period, within four years prior to the filing of the
14 complaint.

15 31. Defendant, its employees, and agents are excluded from The Classes.
16 Plaintiff does not know the number of members in The Classes, but believes the
17 Classes members number in the thousands, if not more. Thus, this matter should
18 be certified as a Class Action to assist in the expeditious litigation of the matter.

19 32. The Classes are so numerous that the individual joinder of all of its
20 members is impractical. While the exact number and identities of The Classes
21 members are unknown to Plaintiff at this time and can only be ascertained through
22 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
23 The Classes includes thousands of members. Plaintiff alleges that The Classes
24 members may be ascertained by the records maintained by Defendant.

25 33. Plaintiff and members of The ATDS Class were harmed by the acts of
26 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
27 and ATDS Class members via their cellular telephones thereby causing Plaintiff
28 and ATDS Class members to incur certain charges or reduced telephone time for

1 which Plaintiff and ATDS Class members had previously paid by having to retrieve
2 or administer messages left by Defendant during those illegal calls, and invading
3 the privacy of said Plaintiff and ATDS Class members.

4 34. Common questions of fact and law exist as to all members of The
5 ATDS Class which predominate over any questions affecting only individual
6 members of The ATDS Class. These common legal and factual questions, which
7 do not vary between ATDS Class members, and which may be determined without
8 reference to the individual circumstances of any ATDS Class members, include,
9 but are not limited to, the following:

- 10 a. Whether, within the four years prior to the filing of this
11 Complaint, Defendant made any telemarketing/solicitation
12 calls (other than a call made for emergency purposes or made
13 with the prior express consent of the called party) to a ATDS
14 Class member using any automatic telephone dialing system or
15 any artificial or prerecorded voice to any telephone number
16 assigned to a cellular telephone service;
- 17 b. Whether Plaintiff and the ATDS Class members were damaged
18 thereby, and the extent of damages for such violation; and
- 19 c. Whether Defendant should be enjoined from engaging in such
20 conduct in the future.

21 35. As a person that received numerous telemarketing/solicitation calls
22 from Defendant using an automatic telephone dialing system or an artificial or
23 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
24 claims that are typical of The ATDS Class.

25 36. Plaintiff and members of The DNC Class were harmed by the acts of
26 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
27 and DNC Class members via their telephones for solicitation purposes, thereby
28 invading the privacy of said Plaintiff and the DNC Class members whose telephone

1 numbers were on the National Do-Not-Call Registry. Plaintiff and the DNC Class
2 members were damaged thereby.

3 37. Common questions of fact and law exist as to all members of The
4 DNC Class which predominate over any questions affecting only individual
5 members of The DNC Class. These common legal and factual questions, which do
6 not vary between DNC Class members, and which may be determined without
7 reference to the individual circumstances of any DNC Class members, include, but
8 are not limited to, the following:

- 9 a. Whether, within the four years prior to the filing of this
10 Complaint, Defendant or its agents placed more than one
11 solicitation call to the members of the DNC Class whose
12 telephone numbers were on the National Do-Not-Call Registry
13 and who had not granted prior express consent to Defendant and
14 did not have an established business relationship with
15 Defendant;
- 16 b. Whether Defendant obtained prior express written consent to
17 place solicitation calls to Plaintiff or the DNC Class members'
18 telephones;
- 19 c. Whether Plaintiff and the DNC Class member were damaged
20 thereby, and the extent of damages for such violation; and
- 21 d. Whether Defendant and its agents should be enjoined from
22 engaging in such conduct in the future.

23 38. As a person that received numerous solicitation calls from Defendant
24 within a 12-month period, who had not granted Defendant prior express consent
25 and did not have an established business relationship with Defendant, Plaintiff is
26 asserting claims that are typical of the DNC Class.

27 39. Plaintiff will fairly and adequately protect the interests of the members
28 of The Classes. Plaintiff has retained attorneys experienced in the prosecution of

1 class actions.

2 40. A class action is superior to other available methods of fair and
 3 efficient adjudication of this controversy, since individual litigation of the claims
 4 of all Classes members is impracticable. Even if every Classes member could
 5 afford individual litigation, the court system could not. It would be unduly
 6 burdensome to the courts in which individual litigation of numerous issues would
 7 proceed. Individualized litigation would also present the potential for varying,
 8 inconsistent, or contradictory judgments and would magnify the delay and expense
 9 to all parties and to the court system resulting from multiple trials of the same
 10 complex factual issues. By contrast, the conduct of this action as a class action
 11 presents fewer management difficulties, conserves the resources of the parties and
 12 of the court system, and protects the rights of each Classes member.

13 41. The prosecution of separate actions by individual Classes members
 14 would create a risk of adjudications with respect to them that would, as a practical
 15 matter, be dispositive of the interests of the other Classes members not parties to
 16 such adjudications or that would substantially impair or impede the ability of such
 17 non-party Class members to protect their interests.

18 42. Defendant has acted or refused to act in respects generally applicable
 19 to The Classes, thereby making appropriate final and injunctive relief with regard
 20 to the members of the Classes as a whole.

21 **FIRST CAUSE OF ACTION**

22 **Negligent Violations of the Telephone Consumer Protection Act**

23 **47 U.S.C. §227(b).**

24 **On Behalf of the ATDS Class**

25 43. Plaintiff repeats and incorporates by reference into this cause of action
 26 the allegations set forth above at Paragraphs 1-37.

27 44. The foregoing acts and omissions of Defendant constitute numerous
 28 and multiple negligent violations of the TCPA, including but not limited to each

1 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular
 2 *47 U.S.C. § 227 (b)(1)(A)*.

3 45. As a result of Defendant's negligent violations of *47 U.S.C. § 227(b)*,
 4 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
 5 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

6 46. Plaintiff and the ATDS Class members are also entitled to and seek
 7 injunctive relief prohibiting such conduct in the future.

8 **SECOND CAUSE OF ACTION**

9 **Knowing and/or Willful Violations of the Telephone Consumer Protection** 10 **Act**

11 **47 U.S.C. §227(b)**

12 **On Behalf of the ATDS Class**

13 47. Plaintiff repeats and incorporates by reference into this cause of action
 14 the allegations set forth above at Paragraphs 1-37.

15 48. The foregoing acts and omissions of Defendant constitute numerous
 16 and multiple knowing and/or willful violations of the TCPA, including but not
 17 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*,
 18 and in particular *47 U.S.C. § 227 (b)(1)(A)*.

19 49. As a result of Defendant's knowing and/or willful violations of *47*
 20 *U.S.C. § 227(b)*, Plaintiff and the ATDS Class members are entitled an award of
 21 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
 22 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

23 50. Plaintiff and the Class members are also entitled to and seek injunctive
 24 relief prohibiting such conduct in the future.

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26 ///

27 ///

28 ///

THIRD CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

On Behalf of the DNC Class

51. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-37.

52. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*, and in particular *47 U.S.C. § 227 (c)(5)*.

53. As a result of Defendant's negligent violations of *47 U.S.C. § 227(c)*, Plaintiff and the DNC Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(c)(5)(B)*.

54. Plaintiff and the DNC Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

FOURTH CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection

Act

47 U.S.C. §227 et seq.

On Behalf of the DNC Class

55. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-37.

56. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*, in particular *47 U.S.C. § 227 (c)(5)*.

57. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227(c)*, Plaintiff and the DNC Class members are entitled an award of

\$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5).

58. Plaintiff and the DNC Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b)

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- An order for injunctive relief prohibiting such conduct by Defendants in the future.
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b)

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- An order for injunctive relief prohibiting such conduct by Defendants in the future.
- Any and all other relief that the Court deems just and proper.

THIRD CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendant's negligent violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(c)(5).
- An order for injunctive relief prohibiting such conduct by Defendants in the future.
- Any and all other relief that the Court deems just and proper.

FOURTH CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(c)(5).
- An order for injunctive relief prohibiting such conduct by Defendants in the future.
- Any and all other relief that the Court deems just and proper.

59. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 19th Day of July, 2018.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff